

REMARKS:**Status**

Claims 1-8, 9-30 are pending. Claims 1, 12, 24, and 29 are independent claims.

Interview Summary

Applicant thanks Examiners Wong and Kramer for interviewing this case on October 15, 2009. Applicants present the below-remarks in furtherance of the interview.

Claim Rejections under 35 USC §112, second paragraph

Claims 1-31 are rejected under 35 USC §112, second paragraph, as being indefinite. In particular, regarding claims 1 and 24, the Office Action asserts that the language “separate from and unrelated to” is unclear. Claims 2-23 and 25-31 are rejected by virtue of their dependence on one of claims 1, 12, 24, or 29. Claims 1, 12, 24, and 29 are amended to remove the phrase “unrelated to.” Claims 1, 12, 24, and 29, as amended, recite that the spot market operators are separate from the spot market clearing house and from the clearing member. Applicant accordingly requests withdrawal of the rejection of claims 1-8, 9-30 under 35 USC §112.

Claim Rejections under 35 USC §103

Claims 1-8, 10-11, 24-25, 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over CAL PX (“Power Exchange Settlement and Billing Protocol (PSABP)”) in view of CPSS (“Clearing arrangements for exchange-traded derivatives”). Claims 9, 12-23, 26-27 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over CAL PX in view of CPSS, further in view of Shimko et al. (U.S. Patent No. 7,139,730 B1). Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over CAL PX in view of CPSS, further in view of Shimko, further in view of Official Notice.

Claims 1 and 24

Claims 1 and 24 are amended to recite that spot market clearing house receives data from a first spot market operator and a second spot market operator indicative of first and second initial settlement amounts for trades between a trading participant and the first and second spot

market operators, respectively. Claims 1 and 24, as amended, also recite sending an initial clearing statement based on data indicative of both the first and second initial settlement amounts. Claims 1 and 24, as amended, also recite that after recording a funds transfer, the spot market clearing house receives first and second revised settlement amounts from the first and second spot market operators, respectively, and that a revised clearing statement is sent to the clearing member based on both the first and second revised settlement amounts. Claims 1 and 24 are also amended to recite that the first and second spot market operators correspond to separate spot markets. Claim 1 is further amended to recite determining by the spot market clearing house a performance bond corresponding to the trading participant based on the first and second trades.

In other words, claims 1 and 24, as amended, the spot market clearing house clears trades involving a particular participant across multiple spot markets. Support for this feature may be found in the Specification at least at paragraphs [0037], [0045], [0054], [0067]-[0068], as well as in Figures 14b or 14c.

In rejecting claim 31, the Office Action on page 8 took official notice that clearing houses which offer clearing of products on multiple exchanges were old and well known in the art at the time of the invention. Thus, the Office Action asserted that it would have been obvious to have modified CAL PX “wherein the spot market clearing house receives data sent from a plurality of spot market operators, the data indicative of a plurality of trades executed by the plurality of spot market operators for a specific participant, each of the plurality of spot market operators being separate from the spot market clearing house.” Applicant respectfully disagrees with the taking of Official Notice as it pertains to spot markets.

The Official Notice does not relate to spot markets, which operate considerably differently from other markets that have used clearing houses. For example, spot markets relate to markets in which commodities, such as electricity or natural gas, are bought and sold in real-time for cash and delivered immediately (Specification, paragraph [0002]), which by the nature of such trades require initial settlements and revised settlements since the amount of commodities like electricity or natural gas that are bought or sold do not always match that which is delivered or consumed. Spot market trading for commodities like electricity, natural gas, or the like poses unique challenges to the use of clearing houses that traditional exchanges

(e.g., derivatives exchanges) do not face, particularly in aggregating and reconciling the types of trades that are characteristic of spot markets across multiple spot markets. The spot market process of receiving an initial settlement amount and a revised settlement amount is also entirely foreign to markets that have used clearing houses. Accordingly, Applicant respectfully disagrees with the taking of Official Notice. Applicant also notes that claims 1 and 24, as amended, recite more than just receiving data from multiple spot market operators related to a plurality of trades for a specific participant. In addition, Paragraph [0012] of the Specification, for example, discusses some of the problems associated with participants trading across multiple spot markets.

According to the invention recited in claims 1 and 24, settlement amounts, as well as performance bond amounts (see claims 1 and 26), can be netted across all multiple participating spot markets. For example, a participant may trade in several spot markets. In order to trade in the several spot markets, the participant may be required to submit several collateral deposits. In contrast, by using a clearing house to settle across several spot markets, the total of a single performance bond required to trade across the several spot markets may be less than the total of the several performance bonds previously required, as exposures are assessed in aggregate, on a portfolio basis.

The CAL PX document relates to the California Power Exchange (CAL PX) organization. The CAL PX document teaches that CAL PX performed both the trades and the settlement, as discussed below:

5.1 Issue of Settlement Statements

5.1.1 PX Responsibility

The PX shall issue the Preliminary Settlement Statement and the Final Settlement Statement relating to each Trading Day to the relevant PX Participant according to the Payments Calendar and the Settlement communication methods contained in the PCP.

However, this type of arrangement – namely that the Spot Market Operator executing the trades and performing the settlement – may create problems. As discussed in the background of the present application, the Spot Market Operator may be left vulnerable to default and in turn weaken the exchange.

The Office Action relies upon the CPSS document to suggest that the spot market operator may be separate from the spot market clearing house and from the clearing member.

The CPSS document does not teach or suggest recording funds transfers, sending an initial clearing statement and a revised clearing statement, or determining performance bonds based on multiple trades by a trading participant across multiple spot markets.

The combination of CAL PX and the CPSS document does not teach or suggest all the features of claims 1 and 24, as amended. Accordingly, Applicant respectfully submits that claims 1 and 24 and the claims that depend thereon are patentable over the cited art.

Claims 12 and 29

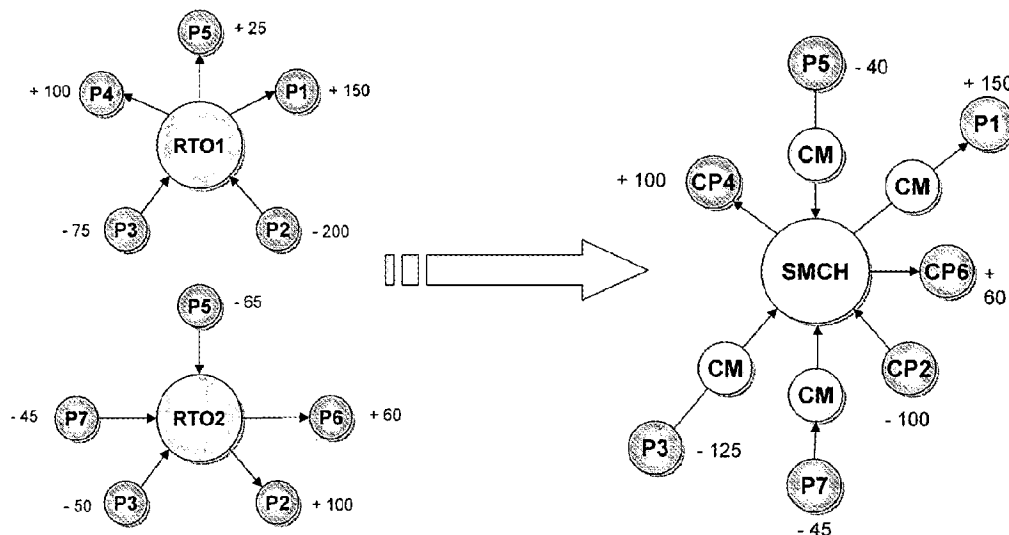
Claim 12, as amended, recites in part:

receiving by the spot market clearing house data indicative of settlement amounts for the trades of a participant in the predetermined period from the plurality of spot market operators, the plurality of spot market operators being separate from the spot market clearing house;

aggregating by the spot market clearing house, using at least one processor, the data indicative of settlement amounts for the trades from the plurality of spot market operators to indicate a net settlement amount for the participant across the plurality of separate spot markets;

determining by the spot market clearing house, using the at least one processor, a performance bond for the participant based on the trades of the participant across the plurality of separate spot markets conducted through the corresponding spot market operators;

See also claim 29. Claims 12 and 29 are amended to clarify that the spot market clearing house generates performance bonds and clearing statements for a participant based on trades by that participant across multiple separate spot markets. An example of this is depicted graphically in the present application as follows:

Fig. 14b

As shown, the spot markets (such as RTO1 and RTO2) are separate from each other and from the spot market clearing house (SMCH). Even though they are separate, the spot market clearing house may settle the trades for participants in both markets, and determine the bond for the participants based on the trades conducted in both markets. Claim 12 further recites that the spot markets relate to trading in electricity. As discussed herein, spot markets trading in commodities like electricity present challenges not experienced by the typical futures exchange.

The Office Action on page 6 discusses the feature of determining a performance bond for at least some of the participants based on the trades for a current day of trading and including the performance bond information on the clearing statement. Determining a performance bond for a current day of trading is a feature recited in claim 21, which depends from independent claim 12. It is not clear where in the Office Action the features of independent claims 12 and 29 (e.g., where the performance bond determined by the spot market clearing house for a participant covers trading by that participant across multiple spot markets), such as the features discussed above, are addressed. For the reasons discussed below, Applicant respectfully submits that claims 12 and 29 are patentable over the cited prior art.

This is unlike typical settlements, such as taught by the CAL PX document or in the CPSS document. Typically, if an RTO (such as the CAL PX organization) performed its own settlement, it was unaware of the trades of a specific participant outside of its market. So, if the

specific participant were making riskier trades in another exchange, the spot market operator would be unaware and would not be able to account for these riskier trades when levying a performance bond. An example of this is shown in Figure 14B with participant P5. According to RTO1, participant P5 has a net profit of +25. However, because of trades in RTO2, participant P5 actually has a net loss of -40. Under a settlement arrangement as taught by the CAL PX document, the RTO1 would be unaware of participant P5's riskier trades with RTO2. RTO1 would therefore levy a performance bond for participant P5 only based on its limited knowledge of participant P5's trades with itself. The Shimko reference, cited to reject claim 29, does not remedy the failing of the CAL PX document. Shimko does not override the clear teaching in the CAL PX document that each spot market settles its own trades. In contrast, claims 12 and 29 as recited use the power of the spot market clearing house to clear trades across multiple spot market operators and levy the performance bond for these trades across the multiple markets. In this way, claims 12 and 29 avoid the serious flaw as taught by the cited prior art and are patentable over the cited art.

SUMMARY

If any questions arise or issues remain, the Examiner is invited to contact the undersigned at the number listed below in order to expedite disposition of this application.

Respectfully submitted,

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